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In re Application of GAO et al
U.S. Application No.: 10/553,328
PCT Application No.: PCT/US2004/011489
Int. Filing Date: 14 April 2004
Priority Date Claimed: 14 April 2003
Attorney Docket No.: 123029-1057 (UHID 2003-031)
For: NOVEL REAGENT COMPOUNDS AND
METHODS OF MAKING AND USING THE
SAME

DECISION

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 26 March 2008.

BACKGROUND

On 14 April 2004, applicant filed international application PCT/US2004/011489, which claimed priority of an earlier United States application filed 14 April 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 06 January 2005. The thirty-month period for paying the basic national fee in the United States expired on 14 October 2005.

On 14 October 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 08 December 2006, the DO/EO/US mailed a Notification of Insufficient Fees (Form PCT/DO/EO/923).

International application PCT/US2004/011489 became abandoned as to the United States for failure to timely respond to the Notification of Insufficient Fees.

On 26 March 2008, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), applicant has provided the required statement.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

Applicant is advised that it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure, Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

In addition, there is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary. The Office will not undertake dual correspondence.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 14 April 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 14 October 2005.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



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